

BOARD OF BARBERING AND COSMETOLOGY

PROPOSED LANGUAGE

**(1) The Board hereby Adopts Section 973 of Article 10 to read as follows:**

**973. GROUNDS FOR IMMEDIATE SUSPENSION**

A representative of the Board shall make the request to the Boards executive officer or his/her designee to immediately suspend a license and place the license on probation on the grounds that the licensee has any of the following:

- (a) Pedicure foot spas that are not visibly clean.
- (b) Pedicure foot spas in which debris has been found upon the removal of screens, jets, foot-plates, or impellers.
- (c) Inadequate cleaning material for the proper disinfection and sanitation of manicuring and or pedicuring equipment found on-site at the establishment.
- (d) No pedicure cleaning logs.
- (e) A history of repeated health and safety violations pertaining to manicuring or pedicuring equipment.
- (f) Manicure and/or pedicure implements that are not visibly clean.

NOTE: Authority cited: Section 7312, Business and Professions Code.

Reference: Section 7403.2, Business and Professions Code.

**(2) The Board hereby Adopts Section 973.1 of Article 10 to read as follows:**

**973.1 PROCEDURES FOR ISSUING IMMEDIATE SUSPENSION**

The Boards Executive Officer or his/her designee shall render an opinion based upon an inspection conducted by a Board representative. The representative shall transmit photographic evidence to the executive officer or his/her designee by means of immediate electronic transaction. Upon receipt of the photographic evidence, the executive officer or his/her designee shall make the determination if consumer harm is possible. Board representative shall issue a notice of immediate suspension upon advisement of the executive officer or his/her designee.

NOTE: Authority cited: Section 7312, Business and Professions Code.

Reference: Section 7403.2, Business and Professions Code.

**(3) The Board hereby Adopts Section 973.2 a, b, c, and d of Article 10 to read as follows:**

**973.2. CONTENT OF IMMEDIATE SUSPENSION NOTICE**

The immediate suspension notice shall contain all of the following:

- (a) Describe with particularity the nature of the violation, including a reference to the specific provision that has been violated.
- (b) Statement that the suspension is immediately stayed and the license is placed on probation for one year.
- (c) Effective date of probation.
- (d) Appeal process.

NOTE: Authority cited: Section 7312, Business and Professions Code.

Reference: Section 7403.2, Business and Professions Code.

**(4) The Board hereby Adopts Section 973.3 a, b, c, and d of Article 10 to read as follows:**

**973.3. TERMS AND CONDITIONS OF PROBATION**

A licensee that has been placed on probation shall comply with the following terms and conditions:

(a) A licensee under probation must submit to the Board on a monthly basis a report that indicates the following, and is signed under penalty of perjury:

(1) Copies of pedicure cleaning logs.

(2) Proof, if any, of completion of remedial training.

(b) An establishment that has been placed on probation shall be inspected on a quarterly basis and may be inspected more frequently. The establishment is responsible for paying all fees required to inspect. The fee for inspection is based on the number of workstations in a single establishment.

Workstation is defined as a pedicure station or a manicuring station.

(c) A licensee on probation shall pay all administrative fines. In a case of economic hardship, the licensee may request to have a payment plan established by the Board.

(d) A licensee who has been subject to suspension and placed on probation in accordance with section 7403.2 of the Business and Professions code shall complete a 8-hour remedial training course

NOTE: Authority cited: Section 7312, Business and Professions Code.

Reference: Section 7403.2, Business and Professions Code.

**(5) The Board hereby Adopts Section 973.4 of Article 10 to read as follows:**

**973.4. Remedial Training Defined**

Remedial training shall be a course of instruction approved by the Board that focuses on the disinfection and sanitation of pedicure and manicure equipment. The remedial training course shall specifically address the Boards Health and Safety laws and regulations.

NOTE: Authority cited: Section 7312, Business and Professions Code.

Reference: Section 7403.2, Business and Professions Code.

**(6) The Board hereby Adopts Section 973.5 a, b, c, and d of Article 10 to read as follows:**

**973.5. Approval of Remedial Training Course**

In order to be approved by the Board to conduct a remedial training course, a provider shall complete an application for course approval and submit the following information to the Board:

- (a) Description of course content. The course content shall be pertinent to the health and safety laws and regulations of the Board. The course shall focus on the safety and sanitation of pedicure and manicure equipment.

- (b) Method of instruction of course offered. Teaching methods for each course shall be described, e.g. lecture, seminar, audiovisual, etc.
- (c) Qualification of Instructors: Instructors shall be qualified to teach the specified course content by virtue of their prior education, training, and experience. A resume of each instructor shall be forwarded with the application for approval.
- (d) The application for course approval shall state the name of the provider and location where instruction will be given.

The Board may withdraw the approval of any course for failure to comply with provisions of this section.

NOTE: Authority cited: Section 7312, Business and Professions Code.

Reference: Section 7403.2, Business and Professions Code.

**(7) The Board hereby Adopts Section 973.6 a, b, c, d, and e of Article 10 to read as follows:**

**973.6. APPEAL PROCESS**

- (a) A licensee that has received an immediate suspension and has been placed on probation may within 30 days of the date the suspension notice was served, notify the Board in writing of his or her request for an informal review hearing before the Boards Disciplinary Review Committee.
- (b) Upon receipt of the timely request, the Board shall schedule a hearing to be

held in the general vicinity of the suspended/probationary licensee. Appeals requested under this section shall be heard at the next regularly scheduled disciplinary review hearing.

(c) Board staff, at least 30 days before the date of the hearing, mail written notice to the probationary licensee of the date, time, and location of the hearing. To expedite scheduling of a disciplinary review hearing, a licensee that has been placed on probation may waive the 30-day notice.

(d) The probationary licensee shall appear and may bring legal counsel or an authorized representative to the hearing and may present written information and/or oral testimony to the disciplinary review committee. The probationary licensee may contest or appeal any of the following aspects of the immediate suspension/probationary license:

(1) The occurrence of a violation of the Barbering and Cosmetology Act or the regulations adopted by the Board;

(2) The period of time for correction, if any;

(3) The amount of fine.

The disciplinary review committee may affirm or dismiss the immediate suspension/probationary license. A written decision based on findings of fact shall be mailed to the suspended/probationary licensee and his/her legal counsel, if any, within thirty days from the date of the disciplinary review hearing. The effective date of the decision shall be immediate. This decision shall be deemed final.

If the suspended/probationary licensee fails to appear for the disciplinary review hearing and fails to show good cause, as defined in section 975 for failure to appear, the suspension/probationary license shall become final and there shall be no administrative appeal except as otherwise provided by law.

(e) If the disciplinary review committee affirms the suspension/probation, the licensee may request in writing a hearing before an administrative law judge pursuant to section 7411 of the Business and Professions Code. If the disciplinary review committee dismisses the suspension/probationary license any request before an administrative law judge shall be deemed withdrawn.

NOTE: Authority cited: Section 7312, Business and Professions Code.

Reference: Section 7403.2, Business and Professions Code.